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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 22171.353 / 16048ROUS01U

I hereby certify that this correspondence is being filed with the United States Patent Office via EFS-Web on

on March 12, 2008

Signature _____

Typed or printed name Bonnie Boyle

Application Number	Filed
10/630,999	July 30, 2003

First Named Inventor: Bodin et al.

Art Unit	Examiner
2616	Zaidi, Syed

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 59804.
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Liem Do
Signature

Liem T. Do
Typed or printed name

972-739-8643
Telephone number

March 12, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bodin et al.	§	Attorney Docket No. 22171.353 (16048ROUS01U)
Serial No.: 10/630,999	§	Group Art Unit: 2616
Filed: July 30, 2003	§	Examiner: Zaidi, Syed
For: PROVIDING PACKET-BASED MULTIMEDIA SERVICES VIA A CIRCUIT BEARER	§	Conf. No. 7723

REASONS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please consider the following reasons in support of the concurrently filed Pre-Appeal Brief Request for Review.

The subject application discloses mechanisms for providing a packet-based multimedia service to a mobile device in a network. The mechanisms include establishing a packet signaling connection between the mobile device and network, establishing a circuit bearer connection between the mobile device and network, transferring signaling information for the multimedia service via the packet signaling connection in alignment with the standard, and transferring data for the multimedia service via the circuit bearer connection in alignment with the standard. The multimedia service is provided to the mobile device via the network as specified by the standard even though the network does not support the required quality of service (QoS) functionality.

Reasons

I. Applicants submit that there is clear error with respect to the Examiner's rejection of independent claims 1 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Ejzak et al.

(U.S. Patent 6,721,565 hereinafter referred to as "Ejzak") in view of Mo et al. (U.S. Patent 7,177,304).

More specifically, as detailed on pages 7-10 of Applicants' Response filed October 1, 2007 to the Non-final Office Action dated June 29, 2007, the rejection of claim 1 is deficient because the combination of Ejzak and Mo clearly fails to teach or suggest "transferring signaling information for the multimedia service via the packet signaling connection in alignment with the standard," and "transferring data for the multimedia service via the circuit bearer connection in alignment with the standard, wherein the multimedia service is provided to the mobile device even though the network does not support the required QoS functionality," as is recited in claim 1. The Examiner clearly concedes that Ejzak does not describe a network that does not provide quality of service (QoS) functionality as required by the standard. (See Office Action dated June 29, 2007, pg. 4). As such, Ejzak cannot be used to teach "transferring signaling information for the multimedia service via the packet signaling connection in alignment with the standard," and "transferring data for the multimedia service via the circuit bearer connection in alignment with the standard, **wherein the multimedia service is provided to the mobile device even though the network does not support the required QoS functionality**."

The Examiner relies on Mo in an attempt to cure the above-referenced deficiencies of Ejzak. More specifically, the Examiner cites to a passage of Mo that states the following: "asynchronously, it largely ignored consideration such as Quality of Service (QoS) for VoIP. Accordingly, as VoIP evolves, more and more efforts are being made to ensure an acceptable QoS over networks, such as IP networks." (Mo, Col. 1, lines 35-38). Accordingly, Mo only generally describes the initial lack of QoS provisioning in IP networks. However, Mo does not in any manner described the transfer of data to a mobile device for a multimedia service over a circuit bearer connection that has signaling information transferred over a packet signaling connection with the mobile device. In fact, Mo only generally describes a packet network that interfaces with a circuit switched device via a voice gateway that establishes a packet connection in the network on behalf of the circuit switched device. For example, FIG 1 of Mo shows the following:

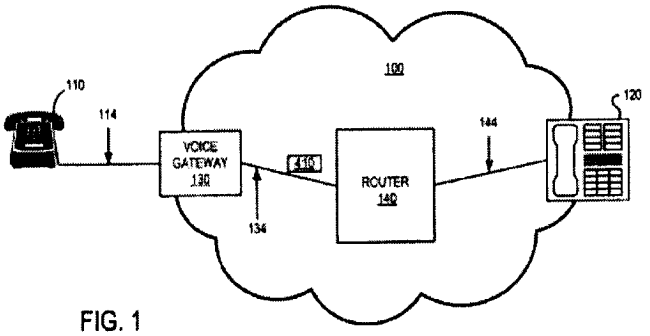

FIG. 1

Thus, the rejection of claim 1 based on the recited combination appears to be clear error.

Further, as detailed on pages 11-12 of Applicants' Response filed October 1, 2007 to the Non-final Office Action dated June 29, 2007, the rejection of claim 8 is deficient because the combination of Ejzak and Mo clearly fails to teach or suggest "controlling the transfer of data via the circuit bearer leg using the signaling context, wherein the signaling context is used to control the provision of the packet-based multimedia service via the circuit bearer leg in alignment with the standard," as is recited in claim 8. The Examiner cites the following passage of Ejzak as allegedly disclosing such a feature:

> Following the handover, the provision of features requested by the user (to the extent they may be available in the circuit system 120) continue to be managed by MSC 124 of circuit system 120 (or another anchor MSC if present). In step 824, the serving MSC releases resources that were previously allocated to the call, to the extent they are not required to support the connections between MG 150, MSC 124, and PSTN 132. The method ends at step 826. (Col. 13, lines 46-53).

As clearly shown above in the cited passage, Ejzak describes a handover situation between a packet-switched network and a circuit-switch network. However, Ejzak is wholly silent with regard to a mechanism for controlling the "transfer of data via the circuit bearer" leg using the signaling context that **is used to control the provision of the packet-based multimedia service via circuit bearer leg** in alignment with the standard as is expressly recited in claim 8. Further, as previously noted, Mo only generally describes a packet network that interfaces with a circuit switched device via a voice gateway that establishes a packet connection in the network on behalf of the circuit switched device. Thus, the rejection of claim 8 based on the recited combination appears to be clear error.

II. Applicants submit that there is clear error with respect to the Examiner's rejection of independent claim 15 under 35 U.S.C. §103(a) as being unpatentable over Surdilla et al. (U.S. Patent Application Publication 2002/0110104 hereinafter referred to as "Surdilla") in view of Ejzak. More specifically, as detailed on pages 13-17 of Applicants' Response filed October 1, 2007 to the Non-final Office Action dated June 29, 2007, the rejection of claim 15 is deficient because the combination of Surdilla and Ejzak clearly fails to teach or suggest "establishing a packet signaling connection between the MS and the P-CSCF," or "establishing a circuit bearer connection between the MS and the media gateway," as is recited in claim 15. For example, with regard to the limitation of "establishing a packet signaling connection between the MS and the P-CSCF," the Examiner cited paragraph [0022] of Surdila as allegedly disclosing such a system:

> The core network also includes a Media Gateway Control Function (MGCF) 28 and a Transport Signaling Gateway Function (T-SGW) 29 that exchange control signaling with entities in the circuit-switched domain. The MGCF 28 is the PSTN/PLMN termination point for a defined network. The MGCF controls the parts of the call state that pertain to connection control for media channels in the Media Gateway (MGW). The MGCF selects a CSCF depending on the routing number for incoming calls from legacy networks and communicates with the CSCF. The MGCF performs protocol conversion between the legacy call control protocols (for example, ISUP) and the 3GPP network call control protocols. The T-SGW 29 maps call-related signaling to/from the PSTN/PLMN on an IP bearer and sends it to/from the MGCF.

With regard to the limitation of "establishing a circuit bearer connection between the MS and the media gateway," the Examiner cited paragraph [0009] of Surdila as allegedly disclosing such a system:

> One possible solution is to merely eliminate the circuit-switched portion of the access network. This requires new mobile terminals that are capable of supporting the Universal Mobile Telecommunications System (UMTS), GPRS, or the Enhanced Data Rates for GSM Evolution (EDGE) which provide packet-switched access. However, the existing base of circuit-switched mobile terminals is very large, so it is desirable to maintain the circuit-switched access capability and merge it with the packet-switched access.

With regard to paragraph [0022], Surdila only generally describes exchange of signaling

with a circuit-switched domain. With regard to paragraph 0009, Surdila generally describes mobile terminals that support packet-switched access and mobile terminals that support circuit-switched access. Surdila is wholly silent with regard to establishing both a packet signaling connection and a circuit bearer connection with a common mobile station.

Also, the Surdila reference discloses only mobile stations capable of one of a packet-switched operation or a circuit-switched operation. Thus, Surdila is directed to a system in which the establishment of both a packet signaling connection and a circuit-switched bearer connection with a common mobile station is neither described nor suggested. The mobile terminals operating in the system of Surdila operate in either a packet-switched mode (e.g., mobile terminal 14) or in a circuit-switched mode (e.g., mobile terminal 32). Thus, this system clearly teaches away from claim 15, in which both a circuit-switched and packet-switched connection are established with a common mobile station . Since it is well recognized that teaching away from the claimed invention is a *per se* demonstration of lack of *prima facie* obviousness, it is clear that the examiner has not borne the initial burden of factually supporting any *prima facie* conclusion of obviousness. Thus, the rejection of claim 15 based on the cited combination appears to be clear error.

Conclusion

It is respectfully submitted that at least independent claims 1, 8, and 15 in the application are in condition for allowance.

Respectfully submitted,

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Dated: 3/12/08

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Certificate of Service

I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on Mar. 12, 2008.

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